

1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF TEXAS

3 EL PASO DIVISION

4 UNITED STATES OF AMERICA) No. EP-23-CR-1842-DB
5 vs.)
6 RENE HERNANDEZ CORDERO (3)) El Paso, Texas
) May 7, 2024

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8 VOLUME 6 OF 6 VOLUMES

9 JURY TRIAL

10 BEFORE THE HONORABLE DAVID BRIONES

11 UNITED STATES DISTRICT JUDGE, and a jury.

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14 A P P E A R A N C E S:

15 FOR THE GOVERNMENT: MR. KYLE MYERS &
16 MS. SHANNON HOLDERFIELD
17 Assistant United States Attorneys
 700 E. San Antonio, Suite 200
 El Paso, Texas 79901

18 FOR THE DEFENDANT: MR. RAY GUTIERREZ
19 Attorney at Law
20 11623 James Grant Drive
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24 Proceedings reported by stenotype. Transcript produced by
25 computer-aided transcription.

1 (Esperanza Gallegos & Barbara Espinosa sworn to interpret
2 Spanish into English.)

3 (Outside the presence of the jury; defendant present.)

4 THE COURT: Counsel, the jury has a question, and it's
5 quite relevant, quite frankly. I figured out part of it, but I
6 can't figure out the second part of what they want.

7 Okay. Jury Note Number 2. (Reading) To Honorable
8 Judge Briones. On Count Two, Page 13, on Points 4 and 5, was
9 it a typo or mistake for prosecutors or U.S. to charge with
10 overall scope of a conspiracy involving at least 400 grams of a
11 mixture or substance containing a detectable amount of Fentanyl
12 when, under definitions of Drug Conspiracy Number 9 -- that, I
13 don't understand what they want -- agents searched and found
14 approximately 300 grams of Fentanyl.

15 Now, what do they mean by Number 9? Is that Exhibit
16 Number 9?

17 MR. MYERS: I don't believe so, Your Honor.

18 THE COURT: Do you have copies?

19 LAW CLERK: Chelsea is going to make copies right now.
20 I have a question for the attorneys.

21 We're getting you copies. It'll just be about a
22 minute.

23 THE COURT: All right. I could send them back with a
24 note that says, Could you please clarify what you mean by "Drug
25 Conspiracy Number 9"? What portion of the Charge -- of the

1 Jury Charge, or what are you referring to, "Number 9."

2 MR. MYERS: We could. But I see where they're
3 struggling, is at what was seized is not represented -- or
4 they're having trouble -- is what was seized, the only thing
5 representative of what's in the conspiracy.

6 THE COURT: You know what? I had the same question
7 this morning from my clerk.

8 MR. MYERS: I mean, like we only seized 300. But I
9 mean, they are dealing with trafficking --

10 THE COURT: Your stipulation reads 300 grams.

11 MR. MYERS: Correct. That was what was seized.

12 THE COURT: Well, I asked my clerk, Was there any
13 other evidence where it was -- where 400 grams came in of
14 Fentanyl? And I couldn't remember, and she couldn't remember.

15 MR. MYERS: I believe it was the -- it was either the
16 cooperator or somebody that testified that this group was
17 trafficking in Fentanyl.

18 But it's only 300 grams seized, but we would have
19 argued the scope consistent with more.

20 THE COURT: If they find him guilty on Count One, it's
21 not going to make any difference.

22 MR. MYERS: Exactly.

23 THE COURT: It only means that the mandatory minimum
24 would not apply.

25 MR. MYERS: I think we would tell them, in this

1 instance, that it is not a typo, and those are the elements of
2 offense, and they would come back in and judge accordingly.

3 THE COURT: What do you want me to say, Yes, it was a
4 typo?

5 MR. MYERS: No.

6 THE COURT: I need to respond to them. I can either
7 ask them again what they mean by that, or just say it was not a
8 typo.

9 MR. MYERS: I think it's not a typo, and they would
10 treat that as a failure of proof on our part. And they'll
11 hopefully return a verdict accordingly, how they see fit.

12 THE COURT: Do you understand, Mr. Gutierrez?

13 MR. GUTIERREZ: I do understand, Judge. But I think
14 we're assuming too much into the question. I would prefer -- I
15 would be more comfortable to ask for them to clarify their
16 question.

17 THE COURT: Okay. Let's -- Anna, take this down.

18 LAW CLERK: Okay.

19 THE COURT: To the foreperson, would you please
20 clarify what you mean by "Number 9"?

21 LAW CLERK: And, Judge, do you want the -- because on
22 the note they have the number symbol. Do you want me to
23 include in this note to the jury the number symbol, and then in
24 parentheses, number?

25 THE COURT: I don't understand.

1 (Law clerk conferring with the Court.)

2 THE COURT: Just like it is.

3 THE LAW CLERK: Just like it is. Okay. Perfect.

4 THE COURT: In response to your Jury Note Number 2,
5 would you please clarify what you mean by --

6 MR. MYERS: I think I know what they mean.

7 (Counsel conferring.)

8 MR. MYERS: Oh, okay. On the Indictment Number 9
9 paragraph of the Superseding Indictment, and the speaking part,
10 that's where it's referencing the drugs seized.

11 MR. GUTIERREZ: Right. It talks about 300 -- yeah.
12 That makes sense now. So it would not be a typo.

13 MR. MYERS: It's not a typo.

14 (Document handed to Court.)

15 MR. GUTIERREZ: Not a typo or mistake.

16 THE COURT: Yeah. You're right.

17 (Document handed back to Mr. Myers.)

18 THE COURT: So what do you propose that I -- No, it
19 was not a mistake or a typo. Please continue with your
20 deliberations.

21 MR. MYERS: I would agree with that, Your Honor.

22 MR. GUTIERREZ: I would agree with that as well,
23 Your Honor. Yes, Your Honor.

24 THE COURT: You got it, Anna?

25 LAW CLERK: I did.

1 THE COURT: In response to your note -- Jury Note
2 Number 2, the answer is: No, it was not a typo or a mistake.

3 I had the same question this morning.

4 LAW CLERK: He did.

5 Judge -- so in response to Jury Note Number 2, No, it
6 was not a mistake or a typo.

7 THE COURT: Please continue with your deliberations.

8 LAW CLERK: Please continue with your deliberations.

9 THE COURT: Is that -- no objection to that from the
10 Government or Mr. Gutierrez?

11 MR. GUTIERREZ: I'm sorry, Your Honor?

12 THE COURT: No objection to that?

13 LAW CLERK: I'm going to re-read it for the parties,
14 Judge.

15 In response to Jury Note Number 2, No. It was not a
16 mistake or a typo. Please continue with your deliberations.

17 MR. MYERS: Agreed.

18 MR. GUTIERREZ: Agreed.

19 THE COURT: Very well. They may be close to coming
20 back with a verdict right now, so you may want to stick around.

21 MR. GUTIERREZ: I'll stay closer.

22 THE COURT: Okay. We'll be in recess.

23 (Recess taken 1:31 p.m.)

24 (Open court; jury present.)

25 THE COURT: Mr. Garcia, I understand the jury has

1 reached a verdict; is that correct, sir?

2 FOREPERSON: Yes, sir.

3 THE COURT: If you'll hand it to the officer, please.

4 (Verdict handed to the Court.)

5 THE COURT: The clerk at this time is going to read
6 the verdict.

7 The defendant will please rise.

8 THE CLERK: In Cause Number EP-23-CR-1842,
9 United States of America versus Rene Hernandez Cordero.

10 Number 1. We, the jury in the above-entitled cause,
11 find defendant Rene Hernandez Cordero guilty as to Count One,
12 conspiracy to possess a controlled substance with intent to
13 distribute.

14 Question Number 1, Do you find beyond a reasonable
15 doubt that the overall scope of the conspiracy charged in
16 Count One involved at least 500 grams or more of a mixture or
17 substance containing a detectable amount of methamphetamine?

18 The answer is yes.

19 Question Number 2, Do you find beyond a reasonable
20 doubt that the defendant knew or reasonably should have known
21 that the scope of the conspiracy charged in Count One involved
22 at least 500 grams of a mixture or substance containing a
23 detectable amount of methamphetamine?

24 The answer is yes.

25 Number 2. We the jury in the above-entitled cause

1 find defendant Rene Hernandez Cordero not guilty as to Count
2 Two.

3 Number 3. We the jury in the above-entitled cause
4 find defendant Rene Hernandez Cordero guilty as to Count Three,
5 straw purchasing firearms.

6 Number 4. We the jury in the above-entitled cause
7 find defendant Rene Hernandez Cordero guilty as to Count Four,
8 trafficking in firearms.

9 Number 5. We the jury in the above-entitled cause
10 find defendant Rene Hernandez Cordero guilty as to Count Eight,
11 bulk cash smuggling conspiracy.

12 Signed this date, the foreperson of the jury.

13 THE COURT: Members of the jury, I want to thank you
14 for your service beginning last week. And I want to thank you
15 for really paying attention, not only to the evidence, but also
16 to the instructions that I gave you, because the question you
17 sent is very relevant. And I had to bring the attorneys here
18 to -- for them to agree how we were going to answer it.

19 So again, thank you for your service. I hope it
20 wasn't a total -- a bad service for you, but at least you got
21 lunch every day.

22 The instructions that I put you under at the beginning
23 of the trial, I'm relieving you of those instructions at this
24 time. You are free to talk about this trial with anyone.
25 You're free also not to. It's entirely up to you.

1 So again with our thanks, you're being excused at this
2 time. All rise for the jury.

3 (Outside the presence of the jury; open court.)

4 THE COURT: Sentencing for Mr. Cordero will be set for
5 August the 8th of this year at 9:30 a.m.

6 Why don't you just wait a few minutes in the courtroom
7 while the jury goes out. You won't have to get all tangled
8 over there with them going down the elevators. Just wait for a
9 few minutes, and you're free to leave.

10 Otherwise, we are in recess.

11 I wanted to thank you all for the fair trial. The
12 attorneys. You too, Mr. Gutierrez. Thank you for your service
13 and the trial.

14 Now we'll be adjourned.

15 (Proceedings concluded 2:05 p.m.)

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I N D E X

Jury Note Number 2	2
Verdict	7
Jury Released	8
Sentencing date set	9
Certification	10

CERTIFICATION

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Date: October 7, 2024

/s/ Maria del Socorro Briggs

Maria del Socorro Briggs